

Return Date -- September 4, 2007

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

STACY HOLK,

Plaintiff,

v.

CADBURY SCHWEPPE AMERICAS
BEVERAGES, SNAPPLE BEVERAGE
CORPORATION, SNAPPLE DISTRIBUTORS,
INC., COTT QUALITY BEVERAGE, INC.,
ESSEX COTT DISTRIBUTORS, INC., and
JOHN DOE (fictitious -- representing one or
more persons or entities involved in the
manufacture, sale and/or distribution of the
products identified herein but whose identity is
currently unknown),

Defendants.

Civil Action No. 3:07-cv-03018-MLC-JJH

**NOTICE OF MOTION TO DISMISS
PLAINTIFF'S COMPLAINT**

ORAL ARGUMENT REQUESTED

To: Philip A. Tortoreti
Tortoreti, Tomes & Callahan, P.C.
150 B Tices Lane
East Brunswick, NJ 08816
Attorney for Plaintiff

Michael Halbfish
Tunney & Halbfish, Esqs.
245 Main Street
Woodbridge, NJ 07095
Attorney for Plaintiff

PLEASE TAKE NOTICE that on September 4, 2007, at 9:00 a.m., or as soon thereafter as counsel may be heard, Defendant Snapple Beverage Corporation, by and through its counsel, Baker Botts L.L.P., will move before The Honorable Judge Mary L. Cooper of the United States District Court for the District of New Jersey, at the Clarkson S. Fisher Building and U.S. Courthouse, 402 East State Street, Trenton, New Jersey, for an order granting its Motion to

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Dismiss Plaintiff's Complaint in its entirety with prejudice, or alternatively without prejudice pursuant to the primary jurisdiction doctrine.

PLEASE TAKE FURTHER NOTICE that in support of this Motion, Defendant relies on the accompanying Memorandum of Law.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is enclosed.

Dated: July 30, 2007

Respectfully submitted,

BAKER BOTTS L.L.P.

/s/ Richard B. Harper

Richard B. Harper (RH 5979)

Maureen P. Reid (MR 2326)

Baker Botts L.L.P.

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Attorneys for Defendant

Snapple Beverage Corporation


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CERTIFICATE OF SERVICE

I, Maureen P. Reid, hereby certify that on this 30th day of July, 2007, a true and correct copy of Defendant Snapple Beverage Corporation's Notice of Motion to Dismiss, Memorandum in Support of Motion to Dismiss (and attached exhibits), and proposed Order were served via electronic filing and regular first class mail, postage prepaid, upon the following counsel of record:

Philip A. Tortoreti
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Michael Halbfish
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245 Main Street
Woodbridge, NJ 07095
Attorney for Plaintiff



Maureen P. Reid